

**EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

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Having received the Report of the United States Magistrate Judge, and no objections thereto having been timely filed, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge's report as the findings and conclusions of the Court. In the Report, the Magistrate Judge recommended Plaintiff's negligence claim be dismissed because Plaintiff PDQ Consulting, Inc. ("Plaintiff") conceded its negligence claim is barred by the economic loss rule. *See* Dkt. #14 at 5–6; Dkt. #4 at 2, n.1 ("Plaintiff does not dispute Defendant's assertion that its claim for negligence is barred by the economic loss rule."). No objections were filed and the Court finds no error. Accordingly, Plaintiff's negligence claim is **DISMISSED WITH PREJUDICE**.

Additionally, the Magistrate Judge recommended the Motion to Dismiss be denied with respect to Plaintiff's claims for fraud and breach of contract, to allow Plaintiff to amend its Complaint. *See* Dkt. #14 at 4–6. No objections were filed. Accordingly, the Court **DENIES** the Motion to Dismiss with respect to Plaintiff's fraud and breach of contract claims. The Court notes Plaintiff filed an amended Complaint on May 2, 2019. *See* Dkt. #18.

Therefore, the Motion to Dismiss (Dkt. #4) is **GRANTED IN PART** and **DENIED IN PART**. Plaintiff's negligence claim is hereby **DISMISSED WITH PREJUDICE**. Defendant's Motion to Dismiss is hereby **DENIED** with respect to Plaintiff's fraud and breach of contract claims.

IT IS SO ORDERED.

SIGNED this 3rd day of May, 2019.



AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE